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Attorneys for Federal Defendants

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
MISSOULA DIVISION

KSANKA KUPAQA XA'ŁĆIN, et al.,

Plaintiffs,

vs.

UNITED STATES FISH AND
WILDLIFE SERVICE, et al.,

Defendants,

and

RC RESOURCES, INC.,

Defendant-Intervenor.

CV 19-20-M-DWM

**FEDERAL DEFENDANTS'
UNOPPOSED MOTION TO APPEAR
REMOTELY FOR THE APRIL 12, 2021
HEARING**

Federal Defendants respectfully move for leave to appear remotely for the hearing scheduled for April 12, 2021 on the parties' cross-motions for summary judgment. Federal Defendants have conferred with counsel for both parties who indicated that they do not oppose this motion. In support of this motion, Federal Defendants state as follows:

1. On March 25, 2021, the Court issued an Order that, in relevant part, set a hearing on the parties' cross-motions for summary judgment for April 12, 2021 at 1:30pm in the Russell Smith Federal Courthouse in Missoula, Montana. ECF No. 122.

2. The continued prevalence of COVID-19 causes increased health risks associated with travel. Counsel for Federal Defendants, Mr. Backer and Ms. Flanagan, are located in Washington, D.C., and co-counsel Mr. Eitel is located in Denver, Colorado. Ms. Flanagan lives in a household with two young children, and is taking precautions to protect herself and high-risk individuals in her family from COVID-19. Mr. Eitel lives in a household with an immunocompromised, high-risk individual and is also taking precautions to protect himself and his family.

Although Mr. Backer lives alone, he has not yet received a COVID-19 vaccine. Traveling to Missoula to appear in person at the hearing would require commercial airline flights and spending time in airports and hotels where basic precautions can be difficult to maintain.

3. Federal Defendants respectfully request leave to participate in the April 12, 2021 hearing by telephone or video conferencing system, in accordance with the Court's preference.

4. The other parties do not oppose Federal Defendants' remote participation in the hearing.

For the foregoing reasons, Federal Defendants respectfully request leave for their counsel to appear remotely for the scheduled April 12, 2021 hearing. A proposed order accompanies this motion.

Dated: March 26, 2021

JEAN E. WILLIAMS,
Acting Assistant Attorney General
SETH M. BARSKY, Section Chief
S. JAY GOVINDAN, Assistant Section Chief

/s/ Davis A. Backer
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Attorneys for Federal Defendants

CERTIFICATE OF COMPLIANCE

Federal Defendants certify that this motion contains 287 words, which is below the applicable 6,500 word limit.

/s/ Davis A. Backer
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CERTIFICATE OF SERVICE

I hereby certify that on March 26, 2021, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF System, which will send notification of the filing to the attorneys of record.

/s/ Davis A. Backer

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